

THE HIGH COURT OF UTTARANCAL AT NAINITAL

Civil Misc Writ Petition (M/S) No. 212 of 2006
(Under Article 227 of the Constitution of India)

1. Sushil Chand Jain S/O M.R. Jain,
President Committee of Management
Mahavir Jain Kanya Pathshala Inter College,
R/O 2/11 Ashirvad Enclave Ballipur Road,
Dehradun
 2. Committee of Management Sri Mahavir Jain Kanya
Pathshala Inter College, 31, Tilak Road, Dehradun
- ... **Petitioner**

Versus

1. State of Uttaranchal through secretary Education,
Civil Secretariat Dehradun,
 2. Director of Education (Intermediate Education),
Uttaranchal, Mayur Vihar Dehradun.
 3. Regional Joint Director of Education Garuwal Mandal,
Pauri District Pauri Garhwal.
 4. District Education Officer, Dehradun.
- ... **Respondents.**

Sri. M.C. Pant learned counsel for the petitioner.

Sri Nand Prasad, Learned Standing Counsel for the respondent No. 1 to 4.

Dated March 09, 2006

PC:
(Hon'ble B.S.Verma, J.)

Heard learned counsel for the parties.

The petitioner has filed the present writ petition for quashing the order dated 30-11-2005 passed by the respondent no. 3 (Annexure No. 1).

Brief facts of the case are that Regional Joint Director of Education Garhwal by the impugned order dated 13-9-2004 it was ordered that instead of Dinesh Kumar Jain, the Assistant Manager shall be given charge for general administration of the Managing Committee. Aggrieved by the said impugned order, the petitioner

Dinesh Jain has filed the Writ Petition No. 977 of 2004 Committee of Management and another Vs. State of Uttaranchal and others. In that Writ Petition, vide order dated 6-10-2004, the Court passed an order that if the order impugned dated 13th September 2004 has not yet been complied with, the same shall remain in abeyance.

Learned counsel for the petitioner has stated that in the mean time, fresh election of the Managing Committee was held on 7.11.2004, which was approved by the D.I.O.S. on 22/23-8-2005 (Annexure II) thereby it was ordered that the approval of the office bearers shall be subject to the condition that if the Hon'ble High Court takes a different view regarding the management committee in that case the approval of the managing committee shall be deemed to be cancelled. Subsequently, on 28-9-2005, the learned counsel for the petitioner stated at the bar that the petition has been rendered infructuous and may be dismissed as such. The said writ petition was dismissed as infructuous vide order passed by Hon'ble Mr. Justice P.C. Verma.

Learned counsel for the petitioner has submitted that a modification application was moved by the petitioner in Writ Petition No. 977 of 2004 and the same is pending before the Court for orders and a prayer was made to the effect that the order dated 28-9-2005 passed by the Hon. Mr. Justice P.C. Verma may be modified in the light of subsequent election held for new committee and approved by District Education Officer Dehradun on 19-02-2004 the present petition renders infructuous.

The grievance of the petitioner in the present writ petition is that in the report which was forwarded to the Director of Education by the respondent no. 3, it was referred in last paragraph that till the final decision of the Hon'ble High Court, the order dated 13.09.2004 passed by the Joint Director of Education, whereby the Assistant

Manager has been given charge of the committee of Management stands revived as per earlier order.

It is not disputed that the election was held on 7.11.2004 subsequent to the order passed by the Joint Director. It is also not disputed that the conditional approval was also given by the District Education Officer on 22/23-8-2005 subject to the final decision of the High Court. The modification application arising out of Writ Petition No. 977 of 2004 is also pending for disposal before the learned Single Judge Hon'ble Mr. Justice P.C. Verma and the decision on the modification application has not been taken till now.

The petitioner is given liberty to file a fresh representation before the Director of Education-respondent no. 2 narrating all the facts in this regard.

The petitioner may make a representation before the Director of Education within 15 days and thereafter the Director of Education shall decide the representation of the petitioner within a period of four weeks by a reasoned order. Till then the order dated 30-11-2005 whereby the power has been given to the Assistant Manager of the Managing Committee shall not be given effect and the impugned order dated 13-9-2004 shall remain in abeyance till the decision taken by the director of Education-respondent no. 2.

With the said observation, the writ petition is disposed of finally.

(B.S. Verma, J.)